

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Constitutional Law-I  
Semester-III (Batch: 2013-18)



End Term Examination: Oct-Nov. 2014

Date: 17<sup>th</sup> October, 2014

Duration: 3 hours

Max. Marks: 50

**Instructions:**

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.
- **Bare Act is not allowed.**

**Marks**

**Answer any five of the following:**

- Q.1 With a view to conserve the cattle wealth of the State of Gujarat, the government of Gujarat enacted the Gujarat Animal Preservation Act, 2012 and prohibited the slaughter of animals which are useful for milch, breeding or agricultural purposes. Section 5 of the said Act read as under: (10)
- “Section 5. (1) Notwithstanding any law for the time being in force or any usage to the contrary, no person shall slaughter or cause to be slaughtered any animal unless, he has obtained in respect of such animal a certificate in writing from the Competent Authority appointed for the area that the animal is fit for slaughter.
- (2) No certificate shall be granted under sub-section (1), in respect of
- (a) a cow;
  - (b) Calf of a cow;
  - (c) calves of a she-buffalo
  - (d) a bull below the age of 16 years;
  - (e) a bullock below the age of 16 years.
- Ajmal Kasai challenged the constitutional validity of section 5(2) of the said act on the ground that such ban offends his fundamental right under Article 25 and 19(1) (g). The High Court of Gujarat struck down the said Act as *ultra vires* of the Constitution. Against the said order, the State of Gujarat filed an appeal before the Supreme Court of India. The matter is placed before Supreme Court of India. Advance your arguments on behalf of appellant as well as respondent.
- Q.2 The police registered a case for the offences punishable under Sections 302 and 324 I.P.C against Raghunath and Bhikaji based on the complaint given by one Mohanlal relating to the murder of Mahesh Kumar. The motive of the crime is alleged to be a communal one. Both of them were arrested and taken into custody. They were remanded to judicial custody. To facilitate the investigation and to reach the truth, the investigation agency decided to go for Polygraph Test, Brain Mapping Test and Narco Analysis Test of both the accused as well as one of the eye witnesses Prabhu Dayal. The investigating officers approached the learned Magistrate and the learned Magistrate passed the orders enabling both the accused as well as the eye witness to subject to such (10)

tests.

Both the accused as well as Prabhu Dayal, filed a petition before the Supreme Court of India challenging the constitutional validity of the said order on the ground of Article 20(3) and 21 of the Constitution of India. On the other side the respondents defended the said tests by citing the importance of extracting information which could help the investigating agencies to prevent criminal activities in the future as well as in circumstances where it is difficult to gather evidence through other means. The respondent also argued that administering these techniques does not cause any bodily harm and that the extracted information will be used only for strengthening investigation efforts and will not be admitted as evidence during the trial stage. These scientific techniques are a softer alternative to the regrettable and allegedly widespread use of 'third degree methods' by investigators. They also contended that the protection of Article 20(3) claimed by the accused persons is available only during the trial. The matter was argued before the Constitution Bench.

Decide the matter.

- Q.3 "The Pai Foundation decision raises more questions than it has answered. The Principles laid down by the majority in Pai Foundation are so broadly formulated that they provide sufficient leeway to subsequent courts in applying those principles while the lack of clarity in the judgment allows judicial creativity...". Do you agree with the said judgment? Discuss the law laid down by the Supreme Court of India in P.A.Inamdar case in light of the said judgment. (10)
- Q.4 The way "Article 21" was interpreted by the Supreme Court of India in A.K.Gopalan case meant that "Article 21" constitutes a restrictions only on the executive which could not act without the law and that Article 21 is impotent against legislative power which could make any law, howsoever drastic, to impose restrains on personal liberty without being obligated to lay down any reasonable procedure for the purpose. Critically examine the Golaknath Judgment in light of the said statement. (10)
- Q.5 The horizons of equality as embodied in Article 14 have been expanding as a result of the judicial pronouncements and Article 14 has now come to have a 'highly activist magnitude'. Do you agree with this statement? Justify your answer with landmark and recent Supreme Court judgments. (10)
- Q.6 Answer very briefly the following questions: (10)
- Changes made in Article 368 by 24<sup>th</sup> & 42<sup>nd</sup> Constitutional Amendment Act.
  - Factors/guidelines for deciding the reasonableness of the restrictions under Article 19 of the Constitution.
  - Relationship between Fundamental Rights and Directive Principle of State Policy
  - Safeguard provided to the detenuue under Article 22 of the Constitution.
- Q.7 Answer with brief reason whether the following statements are True or False. (10)
- Right to vote is a fundamental right.
  - Right to fly national flag is a fundamental right.
  - Board of Cricket Control of India is a State under Article 12 of the Constitution.
  - Hawkers have a fundamental right to carry on trade on pavements under Article 21.
  - Right to silence is a fundamental right.

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